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In the Supreme Court of the United States

OCTOBER TERM, 1967.

No. 1044

PAULINE JUNE FORSYTHE,
Petitioner,

vs.

STATE OF OHIO,
Respondent.

PETITION FOR WRIT OF CERTIORARI
To the Supreme Court of Ohio.

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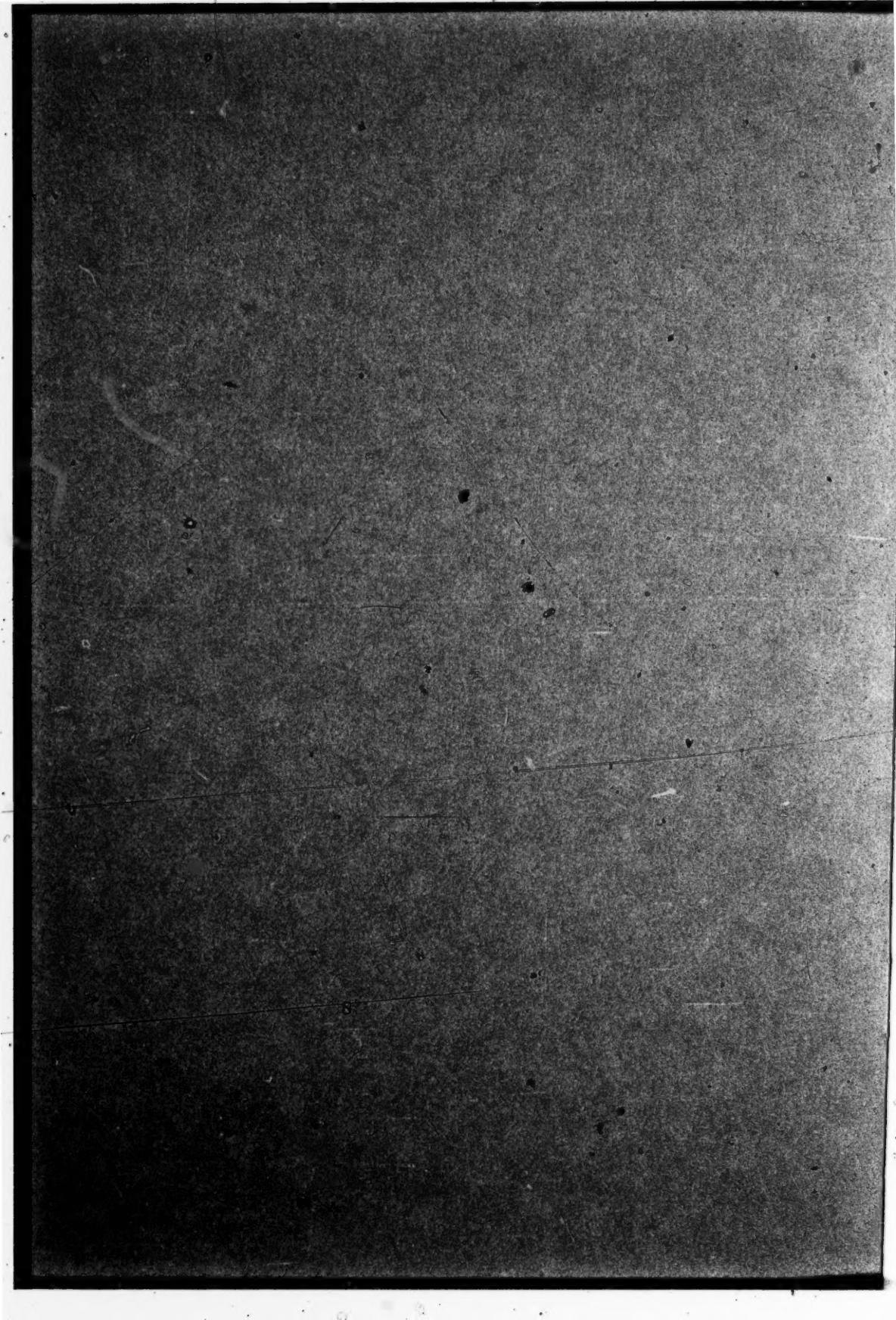

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PAULINE JUNE FORSYTHE,

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vs.

STATE OF OHIO,

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PETITION FOR WRIT OF CERTIORARI To the Supreme Court of Ohio.

Petitioner herein, Pauline June Forsythe, prays that a writ of certiorari issue to review the judgment of the Supreme Court of Ohio, entered in this matter on October 25, 1967.

OPINIONS BELOW.

Neither the Court of Appeals for the Third Appellate District of Ohio (Allen County) nor the Supreme Court of Ohio issued an opinion in this case.

STATEMENT OF JURISDICTION.

On October 25, 1967, the Supreme Court of Ohio denied Petitioner's motion for a re-hearing of its decision made September 27, 1967, overruling Petitioner's motion for leave to appeal.

On November 10, 1967, this Court by Mr. Justice Potter Stewart issued an order staying issuance of the mandate of the Supreme Court of Ohio pending the timely filing of a petition for a writ of certiorari in this case.

The jurisdiction of this Court is invoked under 28 U. S. C., Section 1257 (3), and Part V, Rule 19 (1) (a) of this Court's rules, inasmuch as the Ohio courts have denied Petitioner rights, privileges and immunities guaranteed her under the Constitution of the United States.

QUESTIONS PRESENTED.

I.

Whether a state procedural rule that a defendant waives her privilege against the use of illegally seized evidence if she does not move to suppress said evidence prior to her trial can operate to deny her of her Constitutional safeguards against the use of illegally-seized evidence in a situation where the knowledge that the evidence was illegally seized was not available to the defendant until after her trial commenced?

II.

Whether a woman alone in her home except for seven police officers who have accused her of a crime and are questioning her while searching her home, has been deprived of her freedom in a significant way so as to bring her within the procedural safeguards of the Constitution of the United States as to statements obtained from her by the officers?

III.

Whether the procedural safeguards of the Constitution of the United States extend to protect a defendant who has declined to testify at her trial against remarks by the prosecutor to the jury about defendant's failure to call any witnesses to her defense?

CONSTITUTIONAL PROVISIONS INVOLVED.

The Constitutional provisions involved are: That portion of the Fourth Amendment that reads:

> "The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated * * *."

That portion of the Fifth Amendment that reads:

> "No person * * * shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law * * *."

That portion of the Sixth Amendment that reads:

> "In all criminal prosecutions, the accused shall enjoy the right * * * to have the assistance of counsel for his defense."

And that portion of the 14th Amendment that reads:

> "* * * No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law * * *."

STATEMENT OF THE CASE.

This Petition for a writ of certiorari to the Supreme Court of Ohio is brought because of the failure of the State of Ohio to accord the Petitioner, Mrs. Pauline June Forsythe, rights and privileges guaranteed to her by the Constitution of the United States during her arrest, trial by jury and conviction for the crime of concealing stolen property.

The Petitioner, Mrs. Forsythe, was alone in her home at 224 E. McKibben Street in Lima, Ohio, the night of February 21, 1966 when six police officers armed with an